Before the State of South Carolina Department of Insurance

In the matter of:) Consent Order
Fidelity and Casualty Co. of New York,) Imposing Administrative Penalty
9 Capitol Street Concord, New Hampshire 03301.) File Number) 1999181-078-005

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Fidelity and Casualty Co. of New York, an insurer licensed to transact insurance business within the State of South Carolina.

Fidelity and Casualty hereby admits, and I find as fact, that it failed to pay within fifteen days a final judgment rendered against it by the South Carolina Workers Compensation Commission in the proceeding entitled James Wright v. Gifford Hill Cement, SCWCC file number 8450449, in the amount of \$120. Fidelity and Casualty also admits, and I find as fact, that it also failed to pay that judgment within fifteen days of being notified by the Department of its need to do so. This is a direct violation by Fidelity and Casualty of Section 38-55-120 of the South Carolina Code, and can ultimately lead to the revocation of that insurer's certificate of authority, pursuant to that Code section as well as Sections 38-2-10 and 38-5-130, to transact the business of insurance within the State of South Carolina, following a public hearing before the Administrative Law Judge Division.

Prior to the initiation of formal administrative disciplinary proceedings by the Department against it, Fidelity and Casualty and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision. That consensual recommendation was that, in lieu of the Department's filing of a petition to revoke Fidelity and Casualty's certificate of authority to transact business as an insurer within the State of South Carolina, the insurer would waive its right to a public hearing and immediately submit to the Department an administrative fine in the total amount of \$1,000.

After a thorough review of the matter, and after carefully considering the recommendation of the parties, and pursuant to my findings of fact and conclusions of law, although I can now revoke Fidelity and Casualty's certificate of authority, I hereby impose an administrative fine in the amount of \$1,000 against the insurer pursuant to the authority provided to me by the State of South Carolina General Assembly in S.C. Code Ann. §§ 38-5-130 and 38-2-10 (Supp. 1999). The administrative fine must be paid within ten days of my date and my signature upon this Consent Order Imposing Administrative Penalty. If this amount is not paid on, or before, that date, then Fidelity and Casualty's certificate of authority to transact business as an insurer within the State of South

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Carolina will be summarily revoked without any further administrative disciplinary proceedings. This administrative penalty has been reached by the parties as a result of negotiation and compromise, and in consideration of Fidelity and Casualty's full payment of the Workers Compensation Commission judgment and of the insurer's assurance that in the future it will timely pay final judgments rendered against it in South Carolina.

By the signature of one of its officers or authorized representatives upon this Consent Order Imposing Administrative Penalty, Fidelity and Casualty acknowledges that it understands that this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information* Act, S.C. Code Ann. §§ 30-4-10, *et seq*. (1991 and Supp. 1999).

Nothing contained within this administrative disciplinary order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (Supp. 1999), of the Director of Insurance, exercised either directly or through the Department, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered, that Fidelity and Casualty Insurance Company shall, within ten days of my date and my signature upon this Consent Order Imposing Administrative Penalty, pay through the Department an administrative fine in the total amount of \$1,000.

It is further ordered that a copy of this Consent Order Imposing Administrative Penalty shall be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states.

This Consent Order becomes effective on the date of my signature below.

February 29, 2000, at Columbia, South Carolina

_____ Fidelity and Casualty Co. of New York

I CONSENT:	
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Signature of Aut	horized Representative
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Name

Title

Fidelity and Casualty Company of New York 9 Capitol Street Concord, New Hampshire 03301

Dated this 23 day of Fr bearey, 2000

My Commission Expires May 17, 2003